

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**BENJAMIN OROZCO,
Plaintiff**

v.

**CRAIG PLACKIS
Defendant**

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CIVIL ACTION NO. 1:11-cv-703-ML

Jury Demanded

PLAINTIFF'S MOTION FOR SUPPLEMENTAL ATTORNEY'S FEES

Pursuant to the Fair Labor Standards Act (FLSA), 29 U.S.C. 216(b), Federal Rule of Civil Procedure 54(d), and Local Rule CV-7(j), Plaintiff moves this Court for an award of supplemental attorney's fees incurred since the time that Plaintiff filed his initial Motion for Attorney's Fees, and in support shows the following:

On June 13, 2013, this Court entered a judgment for attorney's fees incurred through the filing of Plaintiffs' initial Motion for Attorney's Fees. (Doc. # 156.) Under Federal Rule of Civil Procedure 54(d)(2)(B), Plaintiff is required to file a motion for a supplemental award of attorney's fees within 14 days of entry of the judgment.

It is well settled that prevailing parties are entitled to their attorney's fees for time spent establishing and litigating a fee claim, as well as for time spent prosecuting the merits of the underlying action. *See, e.g., Cruz v. Hauck*, 762 F.2d 1230, 1233 (5th Cir. 1985) (district court abused its discretion in denying plaintiffs' motion for supplemental fees on grounds that plaintiffs were adequately compensated by initial fee award and should bear costs of defending initial motion); *Johnson v. State of Miss.*, 606 F.2d 635, 637-38 (5th Cir. 1979) (same).

Plaintiff filed his initial Motion for Attorney's Fees on March 22, 2013. (Doc. # 132.) Since that time, Plaintiff has incurred reasonable and necessary attorney's fees in the amount of

\$11,460 for work necessitated by Defendant's Renewed Motion for Judgment as a Matter of Law (Doc. # 139), Motion to Alter or Amend the Judgment (Doc. # 140), Objections to Plaintiff's Motion for Attorney's Fees (Doc. # 141), and Objections to Plaintiff's Bill of Costs (Doc. # 142), and for work related to Defendant's forthcoming appeal and settlement negotiations. The contemporaneous time records of Plaintiff's counsel are attached hereto and incorporated herein by reference as Exhibit A.

Therefore, Plaintiff respectfully requests that he be awarded supplemental attorney's fees in the amount of \$11,460.

Respectfully submitted,


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CERTIFICATE OF CONFERENCE

This is to certify that, in accordance with Local Rule CV-7(j), on June 27, 2013, I attempted to confer by email and telephone with Guillermo Ochoa-Cronfel, counsel for Defendant, but was unable to reach him before filing this motion.



Aaron Johnson
Counsel for Plaintiff

CERTIFICATE OF SERVICE

This is to certify that on June 27, 2013, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the ECF registrants below:

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